

EXHIBIT 13

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF ALAMEDA

3 HON. RICHARD SEABOLT, JUDGE

4
5 ALISON DAUGHERTY, individually

and as successor-in-interest

6 to JAMES DAUGHERTY; MATTHEW

DAUGHERTY; and TIFFANY

7 DAUGHERTY,

8 Plaintiffs,

9 vs.

Case No. RG19013937

10 JOHNSON & JOHNSON, et al.,

11 Defendants.

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16 Reporter's Transcript of Remote Proceedings

17 Friday, May 19, 2023

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23 Reported By: Sheila Pham, CSR No. 13293

1 cases. And you know all of this better than I do.

2 Are King & Spalding; that is, the Johnson &
3 Johnson lawyers representing Johnson & Johnson in these
4 cases, on Zoom or in the courtroom?

5 MR. SATTERLEY: So, Your Honor, I see Mr. Calfo
6 on Zoom.

7 Hey, Alex, how are you doing?

8 MR. CALFO: Good morning.

9 And good morning, Judge.

10 MR. SATTERLEY: I see Jay Bhimani is on Zoom.
11 He's with the firm that represents J&J in the Reyes
12 case. And I see Julia Romano and I see the retailers
13 are represented as well. So I think everybody is
14 represented.

15 So I've got a plan so that we don't have to
16 spend a lot of time today. What I would request -- two
17 different things. The Reyes case, which --

18 Jay, are you with Dechert now, the Dechert law
19 firm?

20 MR. BHIMANI: That's right.

21 MR. SATTERLEY: So the Reyes case is an
22 individual case I want to talk about, and then all of
23 the other cases, I want to lump together. And I want to
24 get a reservation number for a motion to consolidate
25 that I'm going to file, and we'll get a briefing

1 schedule so that we can get a plan in place to
2 consolidate some or all of the cases together.

3 So we can just set all the other cases aside
4 other than --

5 THE COURT: Reyes.

6 MR. SATTERLEY: -- Reyes. Eagles has a trial
7 date already, so we can talk about that briefly.

8 So, really, three things on all of these
9 cases --

10 THE COURT: May I ask -- and I apologize for
11 interrupting, but have you discussed with Johnson &
12 Johnson's counsel the idea of consolidating all the
13 other cases?

14 MR. SATTERLEY: Not -- no. I mentioned it to
15 some counsel because there's different counsel in
16 different case. And Reyes, for example, wouldn't
17 necessarily be consolidated because it still has a
18 preference status. It's been a preference twice now,
19 and it's still a preference case.

20 So if I could, my ultimate goal today is to
21 simply get a reservation number for a motion to
22 consolidate, and then I can meet and confer with defense
23 counsel regarding a briefing schedule regarding that
24 issue. And during the briefing schedule, we might be
25 able to come to some agreements. I doubt it, but we

1 might be able to. So that's all the cases with the
2 exception of the Reyes case.

3 Reyes, I would request it be set for trial.
4 Again, this will be the third time. And that's the
5 reason why I contested the tentative setting it out
6 until later this fall, is because the Reyes case -- to
7 give Your Honor just a history of that case, in 2020,
8 during COVID, I think it was the very first Zoom trial
9 that -- or close to being the very first Zoom trial,
10 certainly, the first J&J Zoom trial, we started that
11 case with Judge Kaus. It was assigned to Judge Kaus.
12 And I think it was -- it began in September. And we
13 handled all motions in limine, ruled on all motions in
14 limine, we had jury selection for several weeks, we
15 picked a jury, and then after opening statement,
16 Mr. Reyes died and a mistrial was granted.

17 Then in 2021, we amended the complaint to
18 wrongful death, we moved for a preference setting
19 because his daughter was under the age of 14. Judge Lee
20 granted the preference, set it for trial in August of
21 2021 as a preference setting, but because Judge Lee was
22 so busy with trials, she trailed that -- she had this
23 case trailed, even though I don't agree that a
24 preference case can trail like that under the
25 circumstance that occurred. And it trailed so long that

1 can we set a hearing date later?

2 THE CLERK: A reservation number is a date.

3 MR. SATTERLEY: Is a date.

4 THE CLERK: Yes, of hearing.

5 THE COURT: And, again, with some reservation
6 because, Mr. Satterley, you sometimes tell me that I
7 shouldn't comment before hearing from both sides. In
8 this instance, from where I sit, consolidation has some
9 advantages because, as everybody knows, we're
10 backlogged, and consolidating cases, and I'm mindful of
11 the fact that -- I gather San Francisco, some years ago,
12 consolidated cases. The First District Court of Appeal
13 had issues with that, although, as I understand it, and
14 I didn't do a deep dive into this, the concern was that
15 the cases weren't sufficiently similar to consolidate.

16 So with all of that, candidly, I'm kind of in
17 favor of consolidation so long as the cases are
18 sufficiently similar to comply with guidance from the
19 appellate courts and, frankly, my own instincts, that
20 cases that are tried together ought to have similar
21 facts.

22 MR. SATTERLEY: And that's what we have put
23 forth in the motion. Your Honor is exactly correct.
24 For years and years, we used to try consolidated
25 asbestos cases all the time back in the '90s and early

1 2000s. And I'm sure J&J will oppose it and argue that
2 they're not substantially similar or similar enough, and
3 that's what we'll hash out over the next several weeks
4 or couple of months, you know.

5 THE COURT: Sure.

6 MR. SATTERLEY: So if we could set it for
7 argument later this summer, I mean, I'm not trying to
8 rush anything, and then give us plenty of time to meet
9 and confer, you know. And there may be two separate
10 consolidations. Conceptually, there might be
11 consolidating a wrongful death and consolidating living.
12 I mean, there may be two separate --

13 THE COURT: And that's why I said what I said.
14 I want both sides to meet and confer to try to come to
15 as much agreement as possible. It doesn't surprise me,
16 frankly, I wouldn't have a job if everybody could
17 resolve all things without guidance from the Court.

18 But I would like the meet and confer to be
19 mindful, both sides to think about how consolidation
20 ought to occur so that, in fact, given that they're
21 probably -- well, there may be disagreement over what is
22 or what isn't substantially similar, that the
23 consolidation motion is guided by getting cases that
24 have at least some similarities together.

25 And I'd suggest that we not do this on Friday.